

**CIVIL SERVICE COMMISSION MINUTES**

**April 5, 2006**

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in the 6<sup>th</sup> Floor Tower of the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

A.Y. Casillas  
Barry I. Newman  
Francesca Krauel  
W. Dale Bailey  
Cheryl Fisher

Absent was:

None

Comprising a quorum of the Commission

Support Staff Present:

Patt Zamary, Executive Officer  
William Smith, Senior Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

**Approved**  
**Civil Service Commission**

**May 3, 2006**

COUNTY OF SAN DIEGO  
CIVIL SERVICE COMMISSION MINUTES  
April 5, 2006

CLOSED SESSION: No closed items for discussion.

2:30 p.m.

OPEN SESSION: 6<sup>th</sup> Floor Tower, 1600 Pacific  
Highway, San Diego, California

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<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
4,6,9	7	5	12,13,14, 15,16,

COMMENTS: Motion by Krauel to approve all items not held for  
discussion; seconded by Bailey. Carried.

OPEN SESSION AGENDA  
County Administration Center, Room 358

**MINUTES**

1. Approval of the Minutes of the regular meeting of February 15, 2006.

**Approved.**

**CONFIRMATION OF ASSIGNMENTS**

2. Commissioner Newman: **Todd Walsh**, Environmental Health Specialist II, appealing an Order to Refrain from Incompatible Activity from the Department of Environmental Health.

**Confirmed.**

3. Commissioner Bailey: **Macario Buenviaje**, Human Services Specialist, appealing an Order of Suspension and Charges from the Health and Human Services Agency.

**Confirmed.**

**DISCIPLINES**

**Appeals**

4. Bradley Fields, Esq. on behalf of **2006-02**, appealing an alleged action by the Sheriff's Department.

RECOMMENDATION: Deny Request.

Bradley Fields, Esq. emphasized that the issue in this matter is a reduction in compensation, not a transfer or reassignment. He further addressed the timeliness of 2006-02's appeal, and stated that employee was never put on notice regarding his appeal rights, and thus, he felt, this appeal was filed within a reasonable period.

Robert Faigin, Esq. explained that corporal assignment expires within one year and is not a vested right for an entire career. He further explained that all employees are apprised of this one-year time frame; after the one-year assignment, an employee may reapply. 2006-02 did apply but was not re-selected for corporal assignment.

The Commission explained to both parties that the department's document crossed a fine line in that the language bordered on language of a disciplinary nature. Both Commissioners Newman and Krauel voiced that although they would be voting in support of staff's recommendation, the department should clearly be made aware of this perception.

**Motion by Casillas to accept staff recommendation;  
seconded by Bailey. Carried.**

## **DISCRIMINATION**

### **Complaints**

5. **Linda Shull**, Social Worker I, alleging age discrimination by the Health and Human Services Agency.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

**Staff recommendation approved. Commissioner Kraul assigned.**

### **Findings**

6. Commissioner Newman: **2005-15**, alleging non-job-related factor (retaliation) discrimination by the Sheriff's Department.

Robert Faigin, Esq. on behalf of the Department contends that a hearing is not necessary in this case because there was merely a lack of communication to the employee.

William D. Smith, Sr. Deputy County Counsel, advised that under Rule 6.1.3 of the Civil Service Rules "If OIA finds

probable cause . . . the Commission **shall** conduct a hearing.  
. . .". (Emphasis added.)

Commissioner Newman, hearing nothing further from the parties, read the following:

**FINDINGS AND RECOMMENDATIONS:**

At the regular meeting of the Civil Service Commission on December 7, 2005, the Commission appointed Barry I. Newman to investigate the complaint submitted by 2005-15, which alleged non-job-related factor (retaliation) discrimination by the Sheriff's Department. The matter was concurrently referred to the Office of Internal Affairs (OIA) for investigation. The Investigating Officer has taken into consideration all documentation. The report of OIA has been received and reviewed by the undersigned Investigating Officer who concurs with OIA's Report and has concluded that there is probable cause to conduct a hearing under the provisions of Civil Service Rule VI. It is therefore recommended that 2005-15's complaint be pursued and the matter proceed under the provisions of Rule VI of the Civil Service Rules; that a hearing officer be assigned to conduct the Rule VI hearing; that the Commission approve and file this report with a finding that there is sufficient evidence to warrant conducting a hearing; and that the proposed decision shall become effective as of the date of approval by the Civil Service Commission.

**Motion by Newman to approve Findings and Recommendations; seconded by Bailey. Commissioner Newman assigned.**

**SELECTION PROCESS**

**Appeals**

7. **Rigoberto Vindiola**, Protective Services Worker, Health and Human Services Agency, appealing his non-selection for the classification of Public Defender Investigator I by the Alternate Public Defender.

RECOMMENDATION: Deny Request.

**Continued.**

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## **Findings**

8. **James Stathes**, appealing the Department of Human Resources' removal of his name from the employment list for Deputy Sheriff Cadet.

RECOMMENDATION: Ratify. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

**(Commissioner Krauel did not participate in this item due to personal acquaintance with Mr. Stathes.)**

**Item No. 8 ratified.**

## **OTHER MATTERS**

### **Performance Appraisal**

9. Donna Clark-Richardson, SEIU Local 2028, on behalf of **Valerie Lough**, Paralegal I, Office of the District Attorney, requesting the sealing of a Performance Appraisal for the period January 10, 2003 to January 10, 2004.

RECOMMENDATION: Deny Request.

Donna Clark-Richardson, SEIU Local 2028, on behalf of Ms. Lough, distributed past performance evaluations (2001-present) to illustrate that the only deficient evaluation is the one dated January 10, 2003 to January 10, 2004. She contends that Ms. Lough was not able to give voice to her concerns, and that the Department took a year to get back to employee regarding her appeal. (Further delay occurred due to a death within the offices of Local 2028.)

Ms. Lough spoke regarding documentation from the Department that she had not been provided, as well as favorable ratings from 4 other attorneys regarding her past performance.

Marisol Mims, representing the DA, explained that when the Department requested documentation to support employee's allegations regarding insufficient documentation, employee was unable to provide DA staff with same.

Commissioner Newman explained that in the sealing of a performance appraisal, he looks for a critical and important reason(s) to grant a sealing. This case did not meet that criteria.

**Motion by Krauel to accept staff recommendation; seconded by Casillas. Carried.**

### **Extension of Temporary Appointments**

10. Alternate Public Defender

1 Deputy Alternate Public Defender I (Valoree Wortham)

11. Health and Human Services Agency

1 Residential Care Worker Trainee (Shakarta Lewis)

2 Residential Care Workers II (Robert Knowles, Jennifer Young)

RECOMMENDATION: Ratify Item Nos. 10 & 11.

**Item Nos. 10 & 11 ratified.**

### **INFORMATION**

12. Fern Steiner, Esq., on behalf of **Christina Dinkins**, Records Clerk, withdrawal of appeal of an Order of Suspension and Charges from the Probation Department. (Commissioner Newman)

**Withdrawn.**

13. Solita Kampley, SEIU Local 2028, on behalf of **Jerry Simmons**, Medical Examiner Investigator II, withdrawal of appeal of an Order of Suspension from the Office of the Medical Examiner. (Commissioner Casillas)

**Withdrawn.**

14. **Monica Rushing**, Detentions Information Assistant, withdrawal of appeal of an Order of Pay Step Reduction and Charges from the Sheriff's Department. (Commissioner Casillas)

**Withdrawn.**

15. **Servando Cruz**, Stock Clerk, withdrawal of appeal of an Order of Suspension and Charges from the Sheriff's Department. (Commissioner Krauel)

**Withdrawn.**

16. **Janis Weagant**, former Vector Control Technician II, withdrawal of appeal of an Order of Removal and Charges from the Department of Environmental Health. (Commissioner Bailey)

**Withdrawn.**

17. Public Input.

ADJOURNED: 3:10 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION: MAY 3, 2006